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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: DA VINCI SURGICAL  
ROBOT ANTITRUST LITIGATION

**THIS DOCUMENT RELATES TO:**

## ALL ACTIONS

Case No.: 3:21-cv- 03825-AMO-LB

**[PROPOSED] ORDER RE: AMENDED  
CLASS CERTIFICATION OMNIBUS  
SEALING MOTION**

Judge: The Honorable Araceli Martínez-Olguín

1 This Court, having considered the Parties' Amended Omnibus Motion to Seal Materials from the  
 2 Class Certification briefings, including the declarations submitted in support of the motion and all  
 3 arguments by counsel, rules as follows:

4 The Court finds that compelling reasons exist to support the filing under seal of the documents or  
 5 portions thereof listed as "granted" in the following chart and grants the requesting party's motion to  
 6 seal these documents or portions thereof where they appear on the public docket. The Court denies the  
 7 request to seal any documents or portions thereof either (1) listed as "denied" in the following chart or  
 8 (2) filed under provisionally seal pursuant to Local Rule 79-5(f) because a Party or Third-Party  
 9 designated the document or information as confidential or highly confidential under the protective order  
 10 but which no Party or Third-Party sought to maintain under seal by filing a statement or declaration  
 11 pursuant to Local Rule 79-5(f).

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
<b>Plaintiffs' Sealing Requests</b>							
Glubiak Dec. Ex. 6 – Mark Early Declaration	Dkt. 296.7	Dkt. 297.6	Early Decl., Dkt. 304.1	Larkin	Partial	The Early Class Declaration includes detailed information about confidential agreements between Larkin and Defendant Intuitive Surgical, Inc.; details about the negotiations that occurred between Larkin and Intuitive related to da Vinci robot repair and replacement, and equipment lease agreements; and detailed information regarding Larkin's finances and monies paid to Intuitive.	

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<b>Plaintiffs' Sealing Requests</b>							
Widman Declaration in Support of Intuitive's Opposition to Class Certification	Dkt. 288.2	Dkt. 289.2	Early Decl., Dkt. 304.1	Larkin	Partial	This document provides details pertaining to confidential agreements and negotiations between Larkin and Intuitive.	
Widman Declaration, Ex. 1	Dkt. 288.3	Dkt. 289.3	Early Decl., Dkt. 304.1	Larkin	Partial	This document provides details pertaining to confidential agreements and negotiations between Larkin and Intuitive.	
Hospital Plaintiffs' Response to Defendant Intuitive Surgical, Inc.'s Objection to Certain Class Certification Reply Evidence	Dkt. 301-1	Dkt. 300-2; Dkt. 313	Early Decl., Dkt. 304.1	Larkin	Partial Pg. 5, lines 3-11	These portions of this document provide details pertaining to confidential agreements and negotiations between Larkin and Intuitive.	
Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
<b>Intuitive Sealing Requests</b>							
Plaintiffs' Motion for Class Certification	Dkt. 267	Dkt. 268.1	Wong Dec., Dkt. 304.2	Intuitive	Pg. 10, redacted price on line 26  Pg. 17-18, redacted pricing policy and pricing figures on lines 17:27-18:24	See Wong Dec. ¶4, Omnibus Motion to Seal at Section III.B	

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<b>Intuitive Sealing Requests</b>							
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2	Wong Dec., Dkt. 304.2	Intuitive	Page 105, Figure 9 – Pricing Figures Page 110, n. 497 – Contract Prices Page 111, paragraph 219 and Figure 10 – Pricing figures Page 112, paragraph 220, Figure 11, and n. 504 – Pricing and Revenue Figures, Contract Prices Page 113, paragraph 221 – Gross margin figures Page 114, Figure 12, and paragraph 222 – Margin figures Page 128, paragraph 252 and n.582 – Customer identities Page 148, ns. 677, 678, 680, 681, 683 – Customer identities Page 160, paragraph 317 – Pricing figures	<i>See</i> Wong Dec. ¶4, Omnibus Motion to Seal at Section III.B	

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<b>Intuitive Sealing Requests</b>							
					Page 171, paragraph 340 – Pricing figures		
					Page 172, paragraph 341 – Pricing figures		
					Pages 173–74, paragraph 346 – Margin figures		
					Page 174, paragraph 347 and n.809 – Margin figures		
					Page 182, paragraph 368 – Customer identity		
					Page 186, n.863 – Customer identities		
					Page 191, paragraph 393 – Pricing figures		
					Page 192, paragraph 394 and n. 889 – Pricing figures		
					Page 198, paragraph 405 – Pricing figures		
					Page 199, paragraph 406, n. 919, n. 920 – Pricing figures		
					Page 200, paragraph 408, 409, and n. 927		

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					– Margin figures		
					Page 201, paragraph 411, and n. 935 – Pricing figures, Contract prices, Customer identities		
					Page 212, n.974 – Customer identity		
					Page 256, paragraph 521 – Customer identity		
					Page 260, n.1182 – Customer identity		
					Page 261, n.1204 – Customer identity		
					Page 285, paragraph 587 – Pricing figures		
					Page 287, paragraph 589 – Margin figures		
					Page 294, n.1366 – Cost figures		
					Page 296, n.1376 – Customer identity		

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					Page 300, n.1399 – Customer identity		
					Page 302, paragraph 621 – Margin figures		
					Page 303, paragraph 625 and 626 – Pricing figures		
					Page 304, paragraph 626 and n. 1413 – Pricing figures		
					Page 305, n. 1421– Pricing figures		
					Page 306, paragraph 632 – Pricing figures		
					Page 307, Table 3 – Pricing figures		
					Page 326, paragraph 669 – Pricing figures		
					Page 327, paragraph 670, n. 1535, and n. 1536 – Pricing figures		
					Page 328, paragraph 671 and n. 1545 – Margin figures		
					Page 329, paragraph 672		

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					and n.1551 – Margin figures		
					Page 331, n.1559 – Customer identities		
					Page 351, n.1649 – Customer identities		
					Page 361, paragraph 744 – Margin figures		
					Page 362, paragraph 745 – Margin figures		
					Page 402, paragraph 822 and n.1863 – Pricing figures		
					Page 403, paragraph 823 and n. 1865 – Pricing figures		
					Page 421, paragraph 863 – Customer identity		
					Page 422, paragraph 865 and n.1935 – Pricing figures and strategy		
					Page 423, paragraph 867 – Pricing figures		
					Page 424, paragraph 870		

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<b>Intuitive Sealing Requests</b>							
					and n. 1958 – Pricing figures		
					Page 425, paragraph 870, 871, 872, and n. 1961, 1962 – Pricing figures		
					Page 426, paragraph 873 and n. 1968 – Customer identities		
					Page 433, paragraph 883 – Pricing figures		
					Page 448, Table 20 – Pricing figures		
					Page 452, Table 22 – Pricing figures		
					Page 455, paragraph 915 and 916 – Pricing figures, Specific customer identities and pricing figures		
					Page 456, paragraph 916, 918, 2100, and n. 2102 – Pricing figures and specific customer identities and pricing		

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
<b>Intuitive Sealing Requests</b>							
					Page 457, Figure 18 – Pricing figures  Page 458, Table 23 – Pricing figures		
Ex. 11 to the Declaration of Manuel J. Dominguez (Intuitive-00067540)	N/A	Dkt. 267.12	Wong Dec., Dkt. 304.2	Intuitive	This document was provisionally sealed, then refiled as Dkt. 270, pursuant to the Court's previous sealing motion at Dkt. 246.	<i>See Wong Dec. ¶ 4, Omnibus Motion to Seal at Section III.B</i>	
Ex. 23 to the Declaration of Manuel J. Dominguez (Intuitive-00203904)	Dkt. 267.24	Dkt. 268.8	Wong Dec., Dkt. 304.2	Intuitive	Page 2 – Specific discount and pricing figures  Page 3 – Pricing strategy, specific discount and pricing figures	<i>See Wong Dec. ¶ 4, Omnibus Motion to Seal at Section III.B</i>  This document was previously partially sealed (see Wong Decl. at Dkt. No. 143-1)	
Intuitive's Opposition to Class Certification	Dkt. 288	Dkt. 289.1	Wong Dec., Dkt. 304.2	Intuitive	Page 4, Line 21 – Pricing figures  Page 14, Lines 11-13 – Pricing figures  Page 21, Line 22 – Settlement amount	<i>See Wong Dec. ¶¶ 4, 5 Omnibus Motion to Seal at Section III.B</i>	

1 Document or title or description	2 Dkt. of publicly- filed version	3 Dkt. of sealed version	4 Dkt. of decl. in support of sealing	5 Party seeking sealing	6 Sealing sought	7 Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	8 Granted/ Denied (leave blank)
<b>Intuitive Sealing Requests</b>							
9 Widman Declaration in Support of Intuitive's Opposition to Class Certification	10 Dkt. 288.2	11 Dkt. 289.2	12 Wong Dec., Dkt. 304.2	13 Intuitive	14 Page 3, paragraphs 2 and 3 – Specific settlement amounts	15 <i>See Wong Dec.</i> ¶¶ 4, 5 Omnibus Motion to Seal at Section III.B	16
17 Widman Declaration, Ex. 1	18 Dkt. 288.3	19 Dkt. 289.3	20 Wong Dec., Dkt. 304.2	21 Intuitive	22 Full document – settlement negotiations and prices	23 <i>See Wong Dec.</i> ¶¶ 4, 5 Omnibus Motion to Seal at Section III.B	24
25 Bass Dec. Ex. 1 - Expert Rebuttal Report of James W. Hughes	26 Dkt. 288.5	27 Dkt. 289.4	28 Wong Dec., Dkt. 304.2	29 Intuitive	30 Table of Contents, PDF Page 5 – Customer identities  Page 5, paragraph 16 – Pricing figures  Page 15, n.28 – Customer identities  Page 16, Figure 5 – Pricing figures  Page 22, Figure 10 and n.37 – Pricing figures, customer identities and specific customer prices  Page 24, n.42 – Customer identities  Page 25, ns.43, 44 – Pricing strategy, customer identities	31 <i>See Wong Dec.</i> ¶ 4 Omnibus Motion to Seal at Section III.B	32

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					Page 29, paragraphs 38 and 40 – Pricing figures, customer pricing agreements		
17	18	19	20	21	Page 31, n.62 – Customer identities	Page 33, paragraph 48 – Pricing strategy	
22	23	24	25	26	Page 34, paragraph 51, 52 and n. 74, 75, 76, 77 – Customer identities and customer pricing agreements	Page 53, n. 128 – Customer pricing agreement	
27	28				Page 54, paragraph 88 – Pricing figures		
					Page 55, paragraph 88 and n. 136 – Pricing figures		
					Page 59, paragraph 95 – Pricing figures and customer identity		
					Page 60, paragraph 95		

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<b>Intuitive Sealing Requests</b>							
					and notes 146, 147, 148 – Pricing figures and customer identities		
					Page 63, Table 1 – Pricing figures and customer identities		
					Page 65, paragraph 97 and n. 153, 154, 155 – Pricing figures		
					Page 76, Figure 20 – Pricing figures		
					Page 88, n.211 – Customer identities		
					Page 89, paragraph 132 and n. 212, 213, 214 – Customer identities		
					Page 90, paragraph 133, and n. 216 – Customer identities and pricing figures		
					Page 91, paragraph 13 – Customer identities and pricing figures		
					Page 92, Table 2 – Customer		

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					identities and pricing figures		
17	18	19	20	21	Page 93, n. 218 and 219 – Customer identities and pricing figures		
22	23	24	25	26	Page 95, paragraph 138, n. 223, 224, 225, and 226 – Customer identities and pricing figures		
27	28				Page 96, n.229 – Customer identity Page 102, paragraph 146 and n.256 – Customer identities		
					Page 125, list nos. 297, 300 – Customer identities		
					Page 126, Table 3 – Pricing figures		
					Page 129, n.259 – Customer identities		
					Page 130, Figure 21 – Pricing figures		
					Page 131, Figure 22 – Pricing figures		

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<b>Intuitive Sealing Requests</b>							
					Page 132, Figure 23 – Pricing figures  Page 133, Figure 24 – Pricing figures  Page 134, Figure 25 – Pricing figures  Page 135, Figure 26 – Pricing figures		
Bass Dec. Ex. 4 - Intuitive-00372053 – Intuitive-00372055	Dkt. 288.8	Dkt. 289.5	Wong Dec., Dkt. 304.2	Intuitive	Full – pricing strategy	<i>See Wong Dec. ¶ 4 Omnibus Motion to Seal at Section III.B</i>	
Bass Dec. Ex. 7 - Intuitive-00091682 – Intuitive-00091687	Dkt. 288.11	Dkt. 289.8	Wong Dec., Dkt. 304.2	Intuitive	Page 2 – Customer identity and pricing figures	<i>See Wong Dec. ¶ 4 Omnibus Motion to Seal at Section III.B</i>	
Bass Dec. Ex. 15 - Intuitive-00107443 – Intuitive-00107451	Dkt. 288.19	Dkt. 289.13	Wong Dec., Dkt. 304.2	Intuitive	Intuitive-0010747 – Business goals  Intuitive-00107448 – Customer identity  Intuitive-00107449 – Customer identity, Pricing figure  Intuitive - 00107450 – Customer identity, Pricing figure	<i>See Wong Dec. ¶ 4 Omnibus Motion to Seal at Section III.B</i>	

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<b>Intuitive Sealing Requests</b>							
					Intuitive - 00107451 – Customer identity, Pricing figures		
Glubiak Dec. Ex. 1 - Corrected Class Certification Expert Report of Elhauge	Dkt. 296.2	Dkt. 297.2	Wong Dec., Dkt. 304.2	Intuitive	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Manuel J. Dominguez.  <i>See entry above for Elhauge Class Report</i>	<i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.B</i>	
Glubiak Dec. Ex. 2 - James Hughes Amended Expert Report	Dkt. 296.3	Dkt. 297.3	Wong Dec., Dkt. 304.2	Intuitive	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Ashley Bass.  <i>See entry above for Hughes Expert Report.</i>	<i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.B</i>	
Glubiak Dec. Ex 3 – Elhauge Reply Report	Dkt. 296.4	Dkt. 297.4	Wong Dec., Dkt. 304.2	Intuitive	Page 12, paragraph 29 – Pricing figures  Page 15, paragraph 36 and n. 44 – Pricing figures  Page 16, Table 29, paragraph 37 – Pricing figures  Page 17, Table 30 – Pricing figures	<i>See Wong Dec. ¶4 Omnibus Motion to Seal at Section III.B</i>	

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					Page 18, Table 32 – Pricing figures		
					Page 19, Table 33 – Pricing figures		
					Page 20, Table 34 – Pricing figures		
					Page 21, Table 35, Table 36 – Pricing figures		
					Page 22, Table 37 – Pricing figures		
					Page 23, Table 38, 39, paragraph 46, and n. 63 – Pricing figures		
					Page 24, paragraph 48 – Pricing figures		
					Page 25, Table 40 – Pricing figures		
					Page 26, Table 41 – Pricing figures		
					Page 27, Table 42 – Pricing figures		
					Page 29, Table 43 – Pricing figures		

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<b>Intuitive Sealing Requests</b>							
					Page 43, paragraph 77 – Pricing figures  Page 51, n. 188 – Pricing figures  Pages 53–54, paragraph 97 and n. 199 – Pricing figures  Page 55 – Pricing figures  Page 59 – Pricing figures  Page 61 – Pricing figures  Page 63 – Pricing figures  Page 64 – Pricing figures, customer identity  Page 65, paragraph 105 and n. 214 – Pricing figures, customer identity  Page 69, paragraph 113, 114, and n. 232 – Pricing and margin figures  Page 70, paragraph 116 – Pricing figures		

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<b>Intuitive Sealing Requests</b>							
9	10	11	12	13	14	15	16
					Page 76, paragraph 127 and n. 275 – Pricing figures		
					Page 84, paragraph 142 – Customer identities, Pricing figures		
					Page 87, paragraph 148, 149, and n. 345 – Pricing figures, customer identities		
					Page 90, paragraph 154, and n. 361 – Customer identities, Pricing figures		
					Page 94, paragraph 161 – Pricing figures		
					Page 95, paragraphs 162, 163 and n.389 – Pricing figures		
					Page 97, paragraph 166, and 167 – Pricing figures		
					Page 98, paragraph 167, 168, and n. 412 – Pricing figures		

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
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**Intuitive Sealing Requests**

Glubiak Dec. Ex. 6 – Mark Early Declaration	Dkt. 296.7	Dkt. 297.6	Wong Dec., Dkt. 304.2	Intuitive	Full document – settlement negotiations and amounts	<i>See Wong Dec. ¶¶ 4, 5 Omnibus Motion to Seal at Section III.B</i>	
Plaintiffs' Response to Intuitive's Objection to Certain Class Certification Reply Evidence	Dkt. 301.1	Dkt. 300.2; Dkt. 313	Wong Dec., Dkt. 304.2	Intuitive	Partial Page 5, lines 3-11	<i>See Wong Dec. ¶ 5; Omnibus Motion to Seal at Section III.B</i>	

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
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**Asensus Surgical, Inc. Sealing Requests**

Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2	Weingard Decl., Dkt. 304.3	Third-party Asensus Surgical, Inc.	Footnotes 606, 890, 921, and 1537 and in the body of the Elhauge Class Report to which those footnotes refer.	<i>See Weinguard Dec.</i>	
Glubiak Dec. Ex. 1 - Corrected Class Certification Expert Report of Elhauge	Dkt. 296.2	Dkt. 297.2	Weingard Decl., Dkt. 304.3	Third-party Asensus Surgical, Inc.	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Manuel J. Dominguez.  <i>See entry above for Elhauge Class Report</i>	<i>See Weinguard Dec.</i>	

1 Document or title or description	2 Dkt. of publicly- filed version	3 Dkt. of sealed version	4 Dkt. of decl. in support of sealing	5 Party seeking sealing	6 Sealing sought	7 Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	8 Granted/ Denied (leave blank)
<b>Restore Robotics Sealing Requests</b>							
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2		Third-party Restore Robotics	Restore's Highly Confidential information appears in the Elhauge Class Report in footnotes 124, 382, 397, 444, 445, 769, 839, 1014, 1025, 1068, 1110, 1114, 1194, 1230, 1242, 1587, and 1805, and in the body of the Elhauge Class Report to which those footnotes refer. These sections are identical to previously sealed sections of the Corrected Elhauge Report (see Omnibus Sealing Order at Dkt. No. 246)	This material was sealed previously in the Corrected Elhauge Report (see Parker Decl. at Dkt. No. 166 and 144)	

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)	
<b>Restore Robotics Sealing Requests</b>								
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Dkt. 267.2	Dkt. 268.2		Third-party Restore Robotics	Restore's Highly Confidential information appears in the Elhauge Class Report in footnotes 124, 540, 708, 1110, 1114, 1230, 1199, 1075, 1227, 1229, 1231, 1585, 1586, 1587, 1588, and 1805, and in the body of the Elhauge Class Report to which those footnotes refer. These sections are identical to previously sealed sections of the Elhauge Reply Report (see Omnibus Sealing Order at Dkt. No. 246)	This material was partially sealed previously in the Elhauge Reply Report (see Parker Decl. at Dkt. No. 166 and 144)		
Glubiak Dec. Ex. 1 - Corrected Class Certification Expert Report of Elhauge	Dkt. 296.2	Dkt. 297.2		Third-party Restore Robotics	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Manuel J. Dominguez.  <i>See entry above for Elhauge Class Report</i>	See above.		

Document or title or description	Dkt. of publicly-filed version	Dkt. of sealed version	Dkt. of decl. in support of sealing	Party seeking sealing	Sealing sought	Brief statement of reason for sealing (with citation to corresponding declaration in support of sealing)	Granted/Denied (leave blank)
<b>Restore Robotics Sealing Requests</b>							
Ex. 7 to the Declaration of Manuel J. Dominguez (Parnell Rebuttal Expert Report)	Dkt. 267.8	Dkt. 268.4		Third-party Restore Robotics	Restore's Highly Confidential information appears in the Rebuttal Expert Report of Dr. T. Kim Parnell on pp. 119 - 121 and 131 - 132.	This document was partially sealed previously (see Wong Decl. at Dkt. No. 125; Parker Decl. at Dkt. No. 145; Berhold Decl. at Dkt. No. 167; Parker Decl. at Dkt. No. 172; and Parker Decl. at Dkt. No. 178)	

IT IS SO ORDERED.

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
 HON. ARACELI MARTÍNEZ-OLGUÍN  
 United States District Judge  
 Northern District of California